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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of  
  
Petition for Rulemaking  
for "Class A" TV Service

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RM-9260

NOV 1978

**REPLY COMMENTS OF ENGLE BROADCASTING**

1. In these Reply Comments, Engle Broadcasting, licensee of WPSJ-LP reiterates its support of the Community Broadcaster's Petition for Rulemaking and requests that the Commission speedily take action to adopt the Petition to create a new "Class A" television station class, under Part 73 of the Commission Rules.

2. Comments overwhelmingly favor adoption of the CBA Petition. The history of the service indicates strong public support for LPTV stations across the nation. If CBA's Petition is adopted, the Commission will ensure the continuation of this established service

3. As demonstrated in the comments that were submitted to the Commission, LPTV stations are providing diversity and choice, both in programming and ownership, in a media market which is being increasingly consolidated. The commentators have clearly demonstrated the community service provided by LPTV stations including local programming, news, weather, diversity of viewpoint and minority ownership. The public has come to rely upon LPTV stations for entertainment and informative programming. The need to preserve these stations has been proved.

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4. Engle Broadcasting disagrees with the NAB and MSTV that the complexity of the DTV transition is so complicated that LPTV stations need not be considered. The FCC has already adopted the final rulemaking on DTV, construction permits for DTV stations have already begun to be issued, and some DTV stations are on the air with tests. Full service stations have accepted the DTV allotments and are going forward with plans for construction. There are only a relative few dissenting stations who have filed petitions for reconsideration. Creation of a Class A service will not cause any disruption to the transition to digital service as the NAB and MSTV allege.

5. Engle Broadcasting disagrees with the NAB that creation of a Class A service is the giving out of new privileges without the burdens of a full service station. The CBA Petition requires that a Class A station comply with Part 73 Rules. Many LPTV licensees have operated their stations as if under Part 73.

6. The NAB and MSTV are concerned that adoption of this Petition will have an adverse impact on DTV stations not operating at the time of a Class A filing. This is not the case. A LPTV station filing for Class A status must protect DTV stations as allocated in the final DTV Rules. As for the NAB and MSTV concern that DTV stations may, *sometime in the unforeseen future*, be unable to expand service area because of a Class A station, this is an unfounded fear. Neither the NAB nor MSTV have demonstrated that DTV stations would be hampered by a Class A service. To hamper or obstruct the creation of a Class A service in favor of unknown and undemonstrated fear driven by a flavor of anticompetitiveness is not in the interest of the public nor does it meet the Commission's goal of a free and unfettered competitivemarketplace.

7. Addressing Press Communications assertions that 15 years ago LPTV operators were aware of possible demise is put forth by Press without full knowledge of the history of LPTV. It is clear that the elimination of any potential competition, in this case the LPTV industry, is a good thing in the eyes of those who would stand to benefit. When the LPTV service was established, applicants based their decision to enter the LPTV service based upon the exiting NTSC Table of Allotments. In the Final Rulemaking Authorizing the LPTV Service, the Commission defined "Secondary" as it applied to LPTV stations: "secondary status means (1) a low power stations will not be authorized where there is a possibility of objectionable interference to an existing full service station, under the standards prescribed herein; (2) an authorized low power station that cause objectionable interference to an existing full service station is responsible for eliminating the interference, or the low power station must cease operation; (3) an existing low power station that would cause interference in connection with a proposed increase or modification of facilities of an existing full service station or in connection with a proposed new full service station is responsible for eliminating the interference, or the low power station must cease operation." <sup>1</sup> In 1982 that meant NTSC stations, not an entirely new primary television service. LPTV applicants and subsequent licensees were **not** aware and accepting of this current plight as asserted by Press Communications. Their decisions were made by the Commission's Rules applicable at that time. There was no pending DTV table of allotments. There was no plan for new primary television services sold at action. LPTV operators collectively have invested millions of dollars to build thier stations. It is patently unfair to disregard the investment made by LPTV operators, most of whom are small businesses and minorities.

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<sup>1</sup> FCC 82-107 An Inquiry Into the Future Role of Low Power Television Broadcasting and Television Translators in the National Telecommunications System.

8. The Association of America's Public TV stations (APTS) wants extra time after the transition to DTV to improve their facilities. The Commission has adopted final DTV rules specifying the procedures by which stations upgrade their facilities. There is no reason to put further burden on LPTV stations to accommodate a small number of full service stations.

9. The Commission authorized LPTV to permit a fuller utilization of the broadcast spectrum and to fill a growing need for local programming as well as to afford minorities, women and average citizens without financial access to millions of dollars, accessibility to the broadcasting medium.

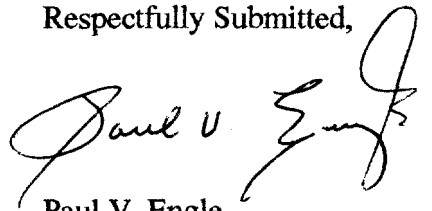
10. Engle Broadcasting requests the Commission disregard the few opposing comments. Implementation of the DTV transition is underway. Adoption of the CBA Petition will not modify the final result the Commission is seeking from the transition to digital, rather it will enhance and increase the diversity of the broadcast service. The public interest along with fairness and equity compel the Commission to disregard comments based upon anti competitive fears in favor of a policy that will promote competition.

11. Engle Broadcasting supports CBA's Petition and believes that if adopted, the new rules will save community television stations from extinction. LPTV stations perform a valuable and needed service to the public. Wholesale elimination of a broadcast service is unprecedented and inherently unfair. Without adoption of this petition, the public will be deprived of a service which they have come to rely upon. The First Amendment prohibits favoring one class of speakers over another. LPTV stations

originating programming have established their "voice" with the public. Adoption of this Petition will ensure that the LPTV voice is not silenced nor auctioned away.

12. The LPTV service was not established in 1982 as a temporary service, useful until digital television service was invented. The Commission did not notify potential applicants that some time in the distant future their operating channel would be taken away for new technologies. The Commission established LPTV with the hope that it would become successful in the marketplace and fill gaps in the service provided by full power television stations. It has been demonstrated that LPTV stations have fulfilled this goal.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Paul V. Engle". The signature is fluid and cursive, with a large, stylized "E" at the end.

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